

CHAPTER 217

Cal. No. 492

7151-A

# IN SENATE

(Prefiled)

January 7, 1976

Introduced by Sen. CAEMMERER—read twice and ordered printed, and when printed to be committed to the Committee on Codes—reported favorably from said committee with amendments and ordered reprinted as amended and when reprinted to be committed to the order of first report

## AN ACT

to amend the penal law, in relation to criminal possession of electronic dart guns

Approved  
1/7/76

Compared by Walter Naby

Approved

1976

## SENATE

The Senate Bill  
by Mr. CAEMMERER  
Entitled: "

Calendar No. 492

Senate No. 7151-A  
Assem. Rept. No. \_\_\_\_\_

PAGE 28

7151-A

MR. CAEMMERER  
AN ACT TO AMEND THE PENAL LAW,  
IN RELATION TO CRIMINAL POSSES-  
SION OF ELECTRONIC DART GUNS

" was read the third time

The President put the question whether the Senate would agree to the final passage of said bill, the same having been printed and upon the desks of the members in its final form at least three calendar legislative days, and it was decided in the affirmative, a majority of all the Senators elected voting in favor thereof and three-fifths being present, as follows:

AYE	Dist.		NAY	AYE	Dist.		NAY
47		Mr. Anderson			29	Mr. Leichter	
49		Mr. Auer			8	Mr. Levy	
45		Mr. Barclay			22	Mr. Lewis	
18		Mr. Bartosiewicz			50	Mr. Lombardi	
23		Mr. Beatty	EXCUSED		24	Mr. Marchi	
25		Ms. Bellamy			5	Mr. Marino	
33		Mr. Bernstein			48	Mr. Mason	
19		Mr. Bloom			28	Mr. McCall	
12		Mr. Bronston			59	Mr. McFarland	
9		Ms. Burstein					
7		Mr. Caemmerer			42	Mr. Nolan	
34		Mr. Calandra			27	Mr. Ohrenstein	
21		Mr. Conklin			17	Mr. Owens	
46		Mr. Donovan			11	Mr. Padavan	
6		Mr. Dunne			60	Mr. Paterson	
54		Mr. Eckert			53	Mr. Perry	
35		Mr. Flynn			36	Mr. Pisani	
32		Mr. Galiber			57	Mr. Present	
30		Mr. Garcia			39	Mr. Rolison	
14		Mr. Gazzara			31	Mr. Ruiz	
1		Mr. Giuffreda			10	Mr. Santucci	
13		Mr. Gold			40	Mr. Schermerhorn	
26		Mr. Goodman			2	Mr. Smith, B. C.	
37		Mr. Gordon			51	Mr. Smith, W. T.	
56		Mr. Griffin			43	Mr. Stafford	
20		Mr. Halperin			55	Mr. Tauriello	
41		Mr. Hudson			3	Mr. Trunzo	
44		Mr. Isabella			58	Mr. Volker	
4		Mr. Johnson			52	Mr. Warder	
15		Mr. Knorr			38	Mrs. Winikow	

AYES 58

NAYS 0

Ordered, that the Secretary deliver said bill to the Assembly and request its concurrence therin.

K

No. 4-150

(Republicans in Italics)

Those Who Voted In the Affirmative	Those Who Voted In the Negative	Those Who Voted In the Affirmative	Those Who Voted In the Negative	Those Who Voted In the Affirmative	Those Who Voted In the Negative
Mr. Abramson		Mr. Gruber		Mr. Molinari	
Miss Amatucci		Mr. Grannis		Mr. Montano	
Mr. Barbaro		Mr. Greco		Mr. Murphy (G.A.)	
<i>Mr. Betros</i>		Mr. Griffin		Mr. Murphy (M.J.)	
Mr. Bianchi		Mr. Griffith		Mr. Murphy (T.J.)	
Mr. Blumenthal		<i>Miss Gunning</i>		<del>Mr. Niccolai</del>	
<del>Mr. [redacted]</del>		Mr. Haley		Mr. Nine	
Mr. Brown		<i>Mr. Hanna</i>		<i>Mr. O'Neil</i>	
<i>Mr. Burns</i>		Mr. Harenberg		Mr. Orazio	
<i>Mr. Burrows</i>		<i>Mr. Harris</i>		Mr. Passannante	
Mr. Butler		<i>Mr. Hawley</i>		Mr. Pesce	
<i>Mr. Calogero</i>		<i>Mr. Healey</i>		Mr. Posner	
<i>Mr. Caputo</i>		Mr. Hecht		<i>Mr. Rappleyea</i>	
Mr. Cincotta		<i>Mr. Henderson</i>		<i>Mr. Reilly</i>	
<i>Mr. Cochrane</i>		<i>Mr. Herbst</i>		<i>Mr. Riford</i>	
Mrs. Connelly		Mr. Hevesi		Mr. Robach	
Mr. Connor		Mr. Hinckey		<i>Mr. Roosa</i>	
<i>Mr. Cook (C.D.)</i>		Mr. Hochberg		<i>Mr. Ross</i>	
<del>Mr. [redacted]</del>		Mr. Hochbrueckner		Mrs. Runyon	
Mr. Cooperman		Mr. Hoyt		<i>Mr. Ryan</i>	
Mr. Culhane		<i>Mr. Hurley</i>		Mr. Schmidt	
<i>Mr. Daly</i>		Mr. Izard		Mr. Schumer	
<i>Mr. D'Amato</i>		<del>Mr. [redacted]</del>		<i>Mr. Sears</i>	
<i>Mr. D'Andrea</i>		<i>Mr. Kelleher</i>		Mr. Serrano	
Mr. Dearie		Mr. Kidder		Mr. Sharoff	
<i>Mr. DelliBovi</i>		Mr. Koppell		Mr. Siegel	
Mr. Del Toro		Mr. Kremer		Mr. Silverman	
Mr. DeSalvio		Mr. Landes		<i>Mr. Solomon</i>	
<i>Mr. DiCarlo</i>		<i>Mr. Lane</i>		Mr. Stavisky	
Mr. DiFalco		Mr. Lasher		Mr. Stein	
<del>Mr. [redacted]</del>		<i>Mr. Lee</i>		<i>Mr. Stephens</i>	
<i>Mr. Dokuchitz</i>		Mr. Lehner		Mr. Stott	
<i>Mr. Duryea</i>		Mr. Lentol		<i>Mr. Strelzin</i>	
<i>Mr. Dwyer</i>		<i>Mr. Levy</i>		<i>Mr. Suchin</i>	
<i>Mr. Emery</i>		Mr. Lewis		<i>Mr. Sullivan</i>	
<i>Mr. Esposito</i>		Mr. Lill		Mr. Tallon	
<del>Mr. [redacted]</del>		Mrs. Lipschutz		<i>Mr. Taylor</i>	
Mr. Farrell		Mr. Lisa		Mr. Thorp	
Mr. Ferris		<i>Mr. Lopresto</i>		<i>Mr. Tills</i>	
<i>Mr. Field</i>		<i>Mr. Mannix</i>		Mr. Vann	
Mr. Fink		Mr. Marchiselli		<i>Mr. Veletta</i>	
<i>Mr. Flack</i>		<del>Mr. [redacted]</del>		Mr. Virgilio	
<i>Mr. Flanagan</i>		<i>Mr. Marshall</i>		Mr. Walsh	
Mr. Fortune		Mr. McCabe		<i>Mr. Wemple</i>	
Mr. Fremming		<i>Mr. Mega</i>		Mr. Weprin	
Mr. Frey		Mr. Miller (G.W.)		<i>Mr. Wertz</i>	
Miss Gadson		<del>Mr. [redacted]</del>		Mr. Yevoli	
<del>Mr. [redacted]</del>		<i>Mr. Miller (H.M.)</i>		<i>Mr. Zagame</i>	
Mr. Gorski		Mr. Miller (M.H.)		Mr. Zimmer	
Mr. Gottfried		Mr. Mirto		<del>Mr. [redacted]</del>	

AYES ..... 140 .....

NOES ..... 0 .....



THE SENATE  
STATE OF NEW YORK  
ALBANY 12224

JOHN D. CAEMMERER  
7TH DISTRICT  
CHAIRMAN  
COMMITTEE ON TRANSPORTATION

DISTRICT OFFICE  
374 HILLSIDE AVENUE  
WILLISTON PARK, N.Y. 11596

May 12, 1976

Honorable Judah Gribetz  
Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, New York 12224

MAY 13 1976

Re: Senate 7151-A

Dear Mr. Gribetz:

The purpose of this bill is to prohibit the illegal possession of an electronic dart gun. Although this device was designed and is being manufactured and sold as a self-defense weapon, it has already been used in holdups and robberies, and it is apparent that its use must be controlled.

There are a number of these devices being manufactured, the most popular of which is called a "Taser Public Defender". It is designed to look like a flashlight which can shoot two barbed darts a distance of 15 to 18 feet and deliver a 50,000 volt jolt of electricity effective through an inch of clothing. While the effect of the charge is to stun, knock out or paralyze a person and is temporary, it causes great pain and may well be lethal to a person in poor health.

This bill amends Section 265.00 of the Penal Law by adding thereto a new subdivision defining the electronic dart gun and amends Section 265.01 by adding electronic dart gun, as a prohibited weapon.

For the protection of our law-abiding residents from the law-breakers who are purchasing and using this dangerous device, it is essential that Governor Carey sign this legislation. I urge you to request the Governor's prompt approval of this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "John D. Caemmerer".  
JOHN D. CAEMMERER  
State Senator

JDC:JMg

5/5/76  
D'Amato  
S.A. 9187-A

5/5/76  
D'Amato  
S.A. 9187-A

CALENDAR NO. 690

BILL NO. A. 9187-A

INTRODUCED BY: Mr. D'Amato

S.

AN ACT

to amend the penal law, in relation to criminal possession of electronic dart guns

SUMMARY OF PROVISIONS - This bill amends section 265.00 of the Penal Law by adding thereto a new subdivision which defines an electronic dart gun. Such gun is defined as a device designed primarily as a weapon the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electric shock to such person by means of a dart or other projectile. Section 265.01 of the Penal Law is also amended to include an electronic dart gun as a prohibited weapon.

RATIONALE - To prohibit the illegal possession of an electronic dart gun.

LEGISLATIVE HISTORY -

PERTINENT CONSIDERATIONS - It is noted that it has recently come to light that there are a number of electronic devices being manufactured which can be used as a weapon to stun, knock out or paralyze an individual. The most popular of these devices is called a Taser Public Defender and was designed as a self-defense weapon. However, such devices are extremely powerful and dangerous and already have been used for illegal purposes. The Taser Public Defender can shoot two barbed darts through an inch of clothing and deliver a 50,000 volt jolt of electricity. Such a shock can immobilize a person for five to fifteen minutes.

It is further noted that if these weapons must be controlled, the penal law must be amended to specifically outlaw their unregulated use. This is especially true because the Federal Treasury Department has ruled that such weapons are not firearms under the 1968 Federal Gun Control Law. These devices have already been used in holdups and robberies.

SENATE \_\_\_\_\_

CAEMMERER

ASSEMBLY \_\_\_\_\_

D'Amato

9187  
CODES

Wm J

Cal. 690

AN ACT to amend the penal law  
in relation to criminal  
possession of electronic  
dart guns

PURPOSE OF BILL

The purpose of this bill is to prohibit the illegal possession of an electronic dart gun.

SUMMARY OF PROVISIONS

This bill amends § 265.00 of the penal law by adding thereto a new subdivision which defines an electronic dart gun. Such gun is defined as a device designed primarily as a weapon the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electric shock to such person by means of a dart or other projectile. § 265.01 of the penal law is also amended to include an electronic dart gun as a prohibited weapon.

JUSTIFICATION

It has recently come to light that there are a number of electronic devices being manufactured which can be used as a weapon to stun, knock out or paralyze an individual. The most popular of these devices is called a Taser Public Defender and was designed as a self-defense weapon. However, such devices are extremely powerful and dangerous and already have been used for illegal purposes. The Taser Public Defender can shoot two barbed darts through an inch of clothing and deliver a 50,000 volt jolt of electricity. Such a shock can immobilize a person for five to fifteen minutes. It is apparent that these weapons must be controlled and the penal law must be amended to specifically outlaw their unregulated use. This is especially true because the Federal Treasury Department has ruled that such weapons are not firearms under the 1968 Federal Gun Control Law. These devices have already been used in holdups and robberies and it is important that the Legislature quickly adopt this bill.

EFFECTIVE DATE

This act shall take effect September first, nineteen hundred seventy-six.

NEW YORK STATE POLICE  
STATE CAMPUS  
ALBANY, N.Y. 12226

WILLIAM G. CONNELIE  
SUPERINTENDENT

May 14, 1976

SENATE ASSEMBLY INTRODUCED BY

7151-A Sen. Caemmerer

RECOMMENDATION: Approval

STATUTE INVOLVED: Penal Law, §265.00 and 265.01

EFFECTIVE DATE: September 1, 1976

## DISCUSSION:

1. Purpose of bill:

To amend the Penal Law, in relation to criminal possession of electronic dart guns.

## 2. Summary of provisions of bill:

This bill defines an electronic dart gun and makes it a crime to be in possession thereof.

3. Prior legislative history of bill:

None known.

4. Known position of others respecting bill:

It can be anticipated that all police agencies would be in support of this bill.

## 5. Budget implications:

None known.

#### 6. Arguments in support of bill:

It has been demonstrated that the electronic dart gun, which is capable of being carried as a concealed weapon, will discharge a small projectile a distance of fifteen

- 2 -

feet and through an electric conductor produce paralysis in its victim. This total paralysis may endure for several minutes thus leaving the victim completely helpless. It would take little imagination to realize that such weapon employed unsuspectingly on a police officer would not only leave the police officer at the mercy of the perpetrator but also would leave him vulnerable to the loss of his service weapon.

7. Arguments in opposition to bill:

None.

8. Reasons for recommendation:

See six above.

*William J. Donnelly*  
Superintendent



STATE OF NEW YORK  
OFFICE OF COURT ADMINISTRATION  
270 BROADWAY  
NEW YORK, NEW YORK 10007

RICHARD J. BARTLETT  
STATE ADMINISTRATIVE JUDGE

MICHAEL R. JUVILER  
COUNSEL

May 12, 1976

Honorable Judah Gribetz  
Counsel to the Governor  
Executive Chamber  
Albany, New York 12224

RE: S. 7151-A

Dear Mr. Gribetz:

This will acknowledge receipt of your request for comment on the above-designated legislation.

This bill defines and prohibits the possession of electronic dart guns. The Office of Court Administration takes no position on this bill, because the decision to prohibit the possessing of these weapons is properly a substantive legislative one.

However, we point out that the definition of an electronic dart gun as a device designed to "momentarily stun, knock out or paralyze" appears to be an unintentionally narrow one. It would appear at least arguable that if the electrical charge could be stepped up to the point that it is apt to cause permanent injury or death, rather than momentary incapacity, the weapon would not be illegal. We assume this is not intended and therefore suggest that if the Governor supports the objective of the bill, he seek recall or amendment in order to delete the adverb "momentarily."

We also note that, perhaps again inadvertently, the manufacture of these weapons is not prohibited by the bill. Compare, Penal L. §265.10(1).

Sincerely,

A handwritten signature in black ink that reads "Michael R. Juviler".

Michael R. Juviler

MRJ:fn

TO COUNSEL TO THE GOVERNOR

MAY 6 1976

RE: SENATE 7151-A

ASSEMBLY

Inasmuch as this bill does not appear to involve a legal problem nor to relate to the functions of the Department of Law, I am not commenting thereon. However, if there is a particular aspect of the bill upon which you wish comment, please advise me.

Dated: May 6, 1976

LOUIS J. LEFKOWITZ  
Attorney General

MAY 11 1976  
STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
ECONOMIC DEVELOPMENT BOARD

## MEMORANDUM

TO: Judah Gribetz DATE: May 7, 1976  
FROM: Alan Madian *ASML*  
SUBJECT: Ten-day Bills - Economic Impact Statements

The following bills have been reviewed  
and they do not appear to have any economic  
impact:

S. 7151-A  
S. 8241  
S. 8583

A. 2387-B  
A. 10168

B-203-(6/68)

TEN DAY BILL  
BUDGET REPORT ON BILLS

Session Year 1976

SENATE

NO RECOMMENDATION

ASSEMBLY

No. 7151-A

MAY 10 1976

No.

Law: Penal

Title: An Act to amend the penal law, in relation to criminal possession of electronic dart guns.

The above bill has been referred to the Division of the Budget for comment. After careful review, we find that (a) the bill does not affect State finances in any way, (b) the bill has no appreciable effect on State programs or administration, and (c) this office does not have the technical responsibility to make a recommendation on the bill.

We therefore make no recommendation.

SR:jh  
5/7/76  
Paul J. Elston, Deputy Director

S. T. M.



MARIO M. CUOMO  
SECRETARY OF STATE

STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231

MAY 17 1976

May 14, 1976

Honorable Judah Gribetz  
Counsel to the Governor  
State Capitol  
Albany, New York

Re: Senate 7151-A

Dear Judah:

This bill amends the Penal Law, in relation to criminal possession of electronic dart guns.

This bill does not relate to my functions and responsibilities and I have no comments or recommendations concerning same.

Sincerely,

A handwritten signature in black ink, appearing to read "MMC".  
Secretary of State

mmc:sc

5/21/76  
electronic data guns

# New York State Bar Association

## CRIMINAL JUSTICE SECTION

### COMMITTEE ON LEGISLATION

#### MEMO FROM:

Albert M. Rosenblatt, Co-Chairman

MAY 24 1976 May 21, 1976

**TO:** HON. JUDAH GRIBETZ  
Counsel to the Governor

**SUBJECT:** Senate - 7151-A

The Criminal Justice Section of the New York  
State Bar Association approves of the above cap-  
tioned bill.

cc: Kent H. Brown, Esq.  
Legislative Counsel



COURTHOUSE, POUGHKEEPSIE, NEW YORK 12601

S7151A

## LAW OFFICES

## LEVINE AND KROM

404 NORTH ROXBURY DRIVE

BEVERLY HILLS, CALIFORNIA 90210

HOWARD A. KROM  
MELDON E. LEVINE  
LEONARD UNGER  
GEOFFREY COWAN\*  
ROBERT L. IVEY

OF COUNSEL  
SID B. LEVINE  
WILLIAM C. STEIN  
\*MEMBER D.C. BAR ONLY

AREA CODE 213  
273-3555 AND 878-4848

CABLE ADDRESS  
LEVKRO

WASHINGTON OFFICE  
1523 "L" STREET, N.W.  
WASHINGTON, D.C. 20005

May 20, 1976

## SPECIAL DELIVERY

Judah Gribetz, Esq.  
Executive Chamber  
The Capitol  
Albany, New York 12224

Re: Senate Bill 7151A

Dear Mr. Gribetz:

This office represents Taser Systems, Inc., the manufacturers of a non-lethal self-defense weapon known as the Taser.

It has come to our attention within the past hour that the New York state legislature passed Senate Bill 7151A, amending Section 265 of the New York Penal Law to make the Taser a prohibited weapon. Although I have not seen the legislation yet, I have heard some of the arguments that were made in support of the bill and at least some of them are factually inaccurate. For example, the Taser is regulated by the Bureau of Alcohol, Tobacco and Firearms of the United States government, does not penetrate a person's clothing and has no meaningful kinetic force.

I am taking the liberty of forwarding herewith a package of material which describes the Taser and its operation. As you will see from this information, the Taser is not only non-lethal but is meaningfully less dangerous than any other self-defense weapon heretofore created. As persons have become more familiar with its nature and its possibilities, it has developed substantial support.

We did not have the opportunity to present our case before the state legislature or any of its relevant committees and we do not believe that the arguments in support of this device were

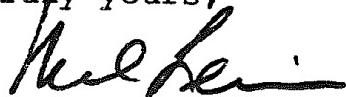
Judah Gribetz, Esq.  
Executive Chamber  
The Capitol  
Albany, New York 12224

May 20, 1976 - Page Two

properly before it. We believe, therefore, that enactment of SB7151A was premature and that its approval by the Governor would be premature. We urge you to allow us to present our case before the legislature before legislation which so clearly affects us is enacted.

If you have any questions, please feel free to contact the undersigned in the meantime.

Very truly yours,



Meldon E. Levine  
of LEVINE & KROM

MEL/jmg

The Association of the Bar of the City of New York  
Committee on Criminal Courts Law and Procedure

S. 7151

Sen. Caemmerer

Senate Committee: Codes

AN ACT to amend the penal law, in relation to  
criminal possession of electronic guns.

The bill is disapproved.

This bill would amend Section 265.00 of the penal law, defining an "electronic dart gun" to mean a weapon the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electrical shock by means of a dart or projectile. It would then amend Section 265.01 so as to make the possession of such an electronic dart gun a Class A misdemeanor, that is, with a penalty equivalent in severity to that for possession of a firearm.

The penal law already prohibits the assaultive use of any weapon (§ 120.00), or the possession of any "dangerous or deadly instrument or weapon with intent to use it unlawfully" (§ 265.05.9). This bill, therefore, would add to existing law only by making the mere possession of an electronic dart gun, without criminal intent, a crime equivalent to the unlicensed possession of a firearm. It should be noted that while current law provides for the licensing--that is, the legalization--of the deadly firearm, the proposed bill makes no provision for licensing of the "stun gun."

The premise of this bill is that attaching a criminal sanction to the possession of an electronic dart gun, or "stun gun", will make its possession (and therefore presumably its use) less likely. If the criminal sanction does so operate as a deterrent, the Committee believes that it is far more important to deter the possession of firearms, both in themselves, and as compared to a relatively less deadly weapon such as a "stun gun." Recognizing the fact that large numbers of people in New York City possess illegal weapons, not with intent to commit crime but because of understandable fear, it would be at least a relative improvement if they would arm themselves with "stun guns" as opposed to the firearms so many now possess.

The Committee believes that rather than make possession of a "stun gun" equivalent to unlicensed possession of a firearm, a sharp differentiation should be maintained between them.

THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

May 20, 1976

S.7151-A - by Mr. Caemmerer

AN ACT To amend the penal law, in  
relation to criminal pos-  
session of electronic dart  
guns

APPROVAL RECOMMENDED

Honorable Hugh L. Carey  
Governor of the State of New York  
Albany, New York

Dear Governor Carey:

The above bill is before you for executive action.

This bill would amend the dangerous weapon provisions of the Penal Law to prohibit possession of electronic dart guns.

A new type of weapon is currently being used to commit robberies in New York and in other states. The gun resembles a flashlight and fires multiple barbed darts which are connected to the unit by a wire approximately eighteen feet in length. The darts are fired into the body of the victim followed by an electric charge which travels from the unit along the wires and into the body causing loss of muscular control, pain and in some cases serious physical injury.

Although the manufacturer claims that the weapon does not kill or maim but only immobilizes without after effects, this claim is based on tests upon healthy young men. The unit, which is capable of producing a charge of 50,000 volts, is obviously a menace to many, particularly those with heart conditions.

Honorable Hugh L. Carey  
May 20, 1976  
Page Two

The manufacturer claims that the weapon is defensive; however, it is no more defensive than other prohibited weapons and, in the hands of wrongdoers it is as effective as a loaded firearm and as potentially hazardous.

Enactment of this bill would place the electronic dart gun in that category of weapons the mere possession of which is illegal.

Accordingly, I urge your approval of this bill.

Very truly yours,

ABRAHAM D. BEAME, Mayor

By   
Richard J. Lakin  
Legislative Representative

To Paul G. O. I.  
2 Pages

The Association of the Bar of the City of New York  
Committee on Criminal Courts Law and Procedure

S. 7151

Sen. Commemorator

Senate Committee: Codes

AN ACT to amend the penal law, in relation to,  
criminal possession of electronic guns.

The bill is disapproved.

This bill would amend Section 265.00 of the penal law, defining an "electronic dart gun" to mean a weapon the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electrical shock by means of a dart or projectile. It would then amend Section 265.01 so as to make the possession of such an electronic dart gun a Class A misdemeanor, that is, with a penalty equivalent in severity to that for possession of a firearm.

The penal law already prohibits the assaultive use of any weapon (§ 120.00), or the possession of any "dangerous or deadly instrument or weapon with intent to use it unlawfully" (§ 265.05.9). This bill, therefore, would add to existing law only by making the mere possession of an electronic dart gun, without criminal intent, a crime equivalent to the unlicensed possession of a firearm. It should be noted that while current law provides for the licensing--that is, the legalization--of the deadly firearm, the proposed bill makes no provision for licensing of the "stun gun."

The premise of this bill is that attaching a criminal sanction to the possession of an electronic dart gun, or "stun gun", will make its possession (and therefore presumably its use) less likely. If the criminal sanction does so operate as a deterrent, the Committee believes that it is far more important to deter the possession of firearms, both in themselves, and as compared to a relatively less deadly weapon such as a "stun gun." Recognizing the fact that large numbers of people in New York City possess illegal weapons, not with intent to commit crime but because of understandable fear, it would be at least a relative improvement if they would arm themselves with "stun guns" as opposed to the firearms so many now possess.

The Committee believes that ~~similar~~ than make possession of a "stun gun" equivalent to unlicensed possession of a firearm, a sharp differentiation should be maintained between them.

LITMAN, FRIEDMAN & KAUFMAN  
ATTORNEYS AT LAW  
120 BROADWAY  
NEW YORK, NEW YORK 10005

MAY 17 1976  
LEWIS R. FRIEDMAN  
HERMAN KAUFMAN  
JACK T. LITMAN

(212) 349-6750

May 14, 1976

Honorable Judah Gribetz  
Executive Chamber  
State Capitol  
Albany, New York 12224

Re: Senate 7151-A

Dear Mr. Gribetz:

We recommend that the above bill be disapproved.

The bill amends Penal Law Section 265.01 to provide that possession of an "electronic dart gun" is a class A misdemeanor. The statute also seeks to define the term "electronic dart gun".

One of the problems with the bill is that it makes possession of an "electronic dart gun" a per se crime without regard to the intent of the possessor. In view of the difficulties with the definition of an "electronic dart gun" its mere possession should not be a per se violation.

It is of more moment that the definition of "electronic dart gun" is not sufficiently specific and is in fact partially contradictory. Under the proposed definition, the court would have to find the primary purpose of the design to be a "weapon". The word "weapon" is not anywhere defined. Then the "purpose" of the device would have to be "to momentarily stun, knock out or paralyze" the victim by the use of an electric shock. The purpose of the "device" might be difficult to ascertain since one meaning of the word "weapon" might well be much broader or perhaps different from the prohibited "purposes" included in the statute. Also, the electric shock which is given by an "electronic dart gun" is not actually given by the dart or projectile but by the battery contained in the handle. Therefore it is possible that "electronic dart guns" generally will not meet the statutory definitions contained in the instant bill.

For the foregoing reasons the bill should be disapproved.

Sincerely,

  
Lewis R. Friedman

LRF/pe

Multiple memorandum received from the  
State Comptroller dated MAY 12 1976  
stating the following bill is of  
"No Interest" to the Department of  
Audit and Control.

Intro. No.

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